

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ENRICO LEVY,)
vs.)
Plaintiff,) CIVIL NO. 06-723-JPG
vs.)
WARDEN EVANS, *et al.*,) APPEAL NO. 07-3722
Defendants.)

MEMORANDUM AND ORDER

GILBERT, District Judge:

The Court previously denied Plaintiff's motion to reconsider (*see* Docs. 16, 17). He has now filed an amended motion for reconsideration (Doc. 18), in which he also attempts to file an amended complaint to add new claims to this action. He subsequently filed yet another motion for reconsideration (Doc. 27), again with a supplemental complaint. Each of these motions is **DENIED**. If Plaintiff wishes to pursue these new claims, he may do so only by filing a new lawsuit and paying a separate filing fee.

Also before the Court are Plaintiff's motions for leave to proceed *in forma pauperis* on appeal (Docs. 20, 28). "An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). A plaintiff is "acting in bad faith in the more common legal meaning of the term . . . [when he sues] . . . on the basis of a frivolous claim, which is to say a claim that no reasonable person could suppose to have any merit." *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000). Further, "an appeal in a frivolous suit cannot be 'in good faith' under § 1915(a)(3), because 'good faith' must be viewed objectively." *Moran v.*

Sondalle, 218 F.3d 647, 650 (7th Cir. 2000). *See also Lee*, 209 F.3d at 1026; *Tolefree v. Cudahy*, 49 F.3d 1243, 1244 (7th Cir. 1995) (“[T]he granting of leave to appeal in *forma pauperis* from the dismissal of a *frivolous* suit is presumptively erroneous and indeed self-contradictory.”)

This action was dismissed as frivolous under 28 U.S.C. § 1915A, and Plaintiff has offered no argument indicating why this Court’s conclusion was incorrect. Therefore, the Court **CERTIFIES** that this appeal is not taken in good faith; accordingly, the motions for leave to proceed *in forma pauperis* on appeal are **DENIED**. Plaintiff shall tender the appellate filing and docketing fee of \$455 to the Clerk of Court in this District, or he may reapply to the Seventh Circuit Court of Appeals for leave to proceed *in forma pauperis* on appeal.

It follows, therefore, that Plaintiff’s motions to appoint counsel (Docs. 21, 22, 26) are also **DENIED**. The question of appointment of counsel on appeal is one for the Seventh Circuit to decide.

Finally, Plaintiff filed a motion “for leave of joint adventures class action” (Doc. 31). This motion is also **DENIED**.

IT IS SO ORDERED.

Dated: February 27, 2008.

s/ J. Phil Gilbert
U. S. District Judge